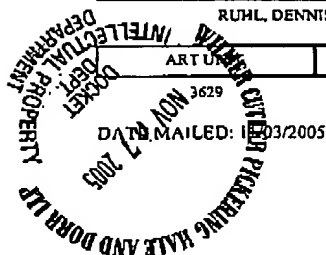




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,408	02/16/2001	Robin Chase	ZipCar/US Patent	1960
23483	7590	11/03/2005	EXAMINER	
WILMER CUTLER PICKERING HALE AND DORR LLP 60 STATE STREET BOSTON, MA 02109			RUHL, DENNIS WILLIAM	
			ART UNIT	PAPER NUMBER



Please find below and/or attached an Office communication concerning this application or proceeding.

WILMER CUTLER PICKERING
 HALE and DORR LLP DOCKETING
 RE: 23483-7590-11/03/2005
 Action Date: 2-3-06
 Action to be Taken: FILED
 Docketed By: WLS On: 11-2005

Office Action Summary	Application No.	Applicant(s)	
	09/785,408	CHASE ET AL.	
	Examiner	Art Unit	
	Dennis Ruhl	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004 and 23 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 24-44 and 48-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 24-44, 48-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's amendment of 11/15/04 and the response of 3/23/05 have been entered. Currently claims 1-20,24-44,48-52 are pending. The examiner will address applicant's remarks at the end of this office action.

1. The amendment filed 11/15/04 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The newly added claim limitation in claims 1 and 52 that recites "*means for determining whether communications are being passed between the vehicle-associated control module and the remote verification module*" is new matter. The specification as originally filed never disclosed anything about a means for determining whether communications are being passed (present tense). Applicant has provided no showing or explanation of where the added language finds support in the originally filed specification. The specification does disclose the fact that the communication channel is monitored to see if it is enabled or not, but this is not the same thing as determining whether communications are being passed. What has been added to the claim is not the same as what the specification disclosed as originally filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

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2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20,24-33,52, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification as originally filed never disclosed anything about a means for determining whether communications are being passed (present tense). The specification does disclose the fact that the communication channel is monitored to see if it is enabled or not, but this is not the same thing as determining whether communications are being passed. What has been added to the claim is not the same as what the specification disclosed as originally filed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20,24-33,44,52, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 1-20,24-33,52, with respect to the language in claim 1 that recites
"means for determining whether communications are being passed between the

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vehicle-associated control module and the remote verification module", it is not clear what structure this language is intended to cover or recite. Applicant is using means plus function language (112,6th) and upon consulting the specification it is noted that there is no disclosure of any *"means for determining whether communications are being passed between the vehicle-associated control module and the remote verification module"* and it is not clear as to what this is supposed to be. One wishing to avoid infringement would not know what structure was covered by this language because it does not appear in the specification as originally filed and because it is not clear what structure is covered by this language.

For claim 17, there is no antecedent basis for "the display". What display has been previously claimed? A display was claimed in claim 12, but applicant has amended claim 13 to depend directly to claim 1, so no display is seen as being claimed in the scope of claim 17 because 12 is not in the chain of dependency anymore. Correction is required. There is also no antecedent basis for "the vehicle-associated access control module *processor*". The examiner suggests deleting the word "processor".

For claim 44, the examiner feels that this claim language contradicts or conflicts with the language added to claim 35. Claim 35 specifies that the access control processor performs the verification step if no communication channel is available. Is this claim now reciting that under all circumstances the access control processor does the verification? If the communication channel is open and the server does the verification as is claimed in claim 35, how can the access control processor also be

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positively recited as performing the same verification? It is not possible for both the server and the access control processor to perform the verification, which is what the scope of claim 44 includes.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8,13,14,16-20,24-33,52, are rejected under 35 U.S.C. 102(b) as being anticipated by Kaman (5715905).

For claims 1,33,52, Kaman discloses a system for controlling access to a vehicle. The system has a vehicle access control module 10 and a verification module 30. The verification module and the access control module communicate with each other through a wireless communication channel (inherent). With respect to the claimed "means for determining whether or not communications are being passed between the access control module and the verification module", the examiner has concluded that this feature is inherent to the system of Kaman. The reason that the limitation is considered inherent is that the access control module of Kaman receives and transmits data by the use of wireless transmission and through the use of a computer 38. The computer 38 will inherently know when it is receiving communications and will inherently know when it is transmitting data to the verification module. A computer inherently knows when it is receiving and/or transmitting data. Because Kaman discloses in

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column 7 that the verification of user identity can be performed locally (in the vehicle itself), this satisfies the limitation of the access control module including means for enabling access to the vehicle in the absence of communications between the vehicle and the verification module. When the verification is done locally, there is no communication occurring between the access control module and the verification module and this satisfies what is claimed.

With respect to the limitation of "*means for determining whether communications are being passed...*" and the fact that the specification discloses a means for monitoring the status of the communication channel (enabled or not), the examiner would like to point out that Kaman discloses in column 3, last paragraph that "*transceivers (e.g. vehicle data collection units 10) to scan for and monitor channels with detected marker signals*". This is a disclosure that the access control module 10 does monitor the status of the communication channel, and would satisfy the language disclosed in the specification. If applicant were to change the language of claim 1 to a "means for monitoring the communication channel", Kaman would disclose this feature.

For claim 2,32, see column 3, lines 46-48.

For claim 3, Kaman discloses "wireless". See column 2, lines 30-32, lines 45-54; column 3, line 31 to end of column 3.

For claims 4,31, the computer system 38 of Kaman satisfies what is claimed.

For claim 5, the computer system 38 is fully capable of the claimed functional language and has "elements" that would allow the claimed function to occur. In the

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event that a vehicle has only one authorized user, this is effectively a person making a reservation in advance for a predetermined period of time (until further notice).

For claim 6, Kaman discloses that real-time verification of user ID is done. The verification module may be contacted for the user ID verification step. See column 7.

For claim 7, Kaman discloses an "access code". See column 7, lines 2-10.

For claim 8, Kaman discloses an ID card (and/or a retinal or fingerprint scan).
See column 7, lines 2-10.

For claims 13,14,16, Kaman discloses a keyboard, see column 7, line 5.

For claim 17, the computer system 38 of Kaman satisfies what is claimed.

For claim 18, see column 7, lines 36-38.

For claim 19, see column 7, lines 33,34.

For claim 20, it is considered inherent that there be a modem in the system of Kaman. A modem is required for Internet communication

For claim 24, see column 4, lines 30-40 that discloses a plurality of vehicles that are capable of communication with the remote verification module (the server).

For claim 25, nothing in Kaman would prevent somebody from making a reservation if they wanted to. The claim does not specify with whom the reservation is being accepted by and this may be a person. The claim does not require that anything in the system accepts the reservations so in the system of Kaman if the operator of the system wanted to accept reservations, nothing would prevent them from doing so.
Reservations can be accepted as claimed.

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For claim 26, if you are not the authorized individual for a specific vehicle but are otherwise considered an authorized member (an employee of a company with access to only certain vehicles and not others) then the vehicle will not allow access as claimed.

For claim 27, system 30 inherently has the ability to add new vehicles as claimed. Clearly at one time there were no vehicles registered in the system, so the adding of more than one vehicle is necessarily present.

For claim 28, see column 5, lines 13-24 where it is disclosed that total time can be tracked. Also see lines 25-30 of column 5 where it is disclosed that miles driven is another variable that is tracked by the system.

For claims 29,30, tracking the total time includes the time from pick up to drop off. Each time the vehicle is used the time is tracked. The same applies to the total miles.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaman (5715905) in view of Hirshberg (5289369).

For claims 9,10, Kaman does not disclose that the ID card is a chip card. Kaman discloses and recognizes that the form of identification used can be varied and discloses numerous options (magnetic card, key card, ID code, fingerprint, etc.). Hirshberg discloses a vehicle rental system that utilizes an ID card (electronic card (chip card), magnetic card, bar code card, etc.) for user identification. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Kaman with an electronic card for identification as disclosed by Hirshberg as a form of identification. An electronic chip card is just another option for the form of identification that is required to access the vehicle.

For claims 11,12, Kaman does not disclose that the vehicle associated access control module has a visual display and a speaker. Kaman discloses that the access control module is capable of sending messages (via a keyboard) and receiving messages (by a printer). Hirshberg discloses a vehicle rental system where each vehicle is equipped with a computer that has a display, etc.. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the access control module of Kaman with a display and speaker so that a user can more easily receive messages in the vehicle. Kaman teaches the desirability of being

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able to receive messages in the vehicle so it is considered obvious to provide a display and speaker for the receipt of those messages.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaman in view of Treyz et al. (6526335).

For claim 15, Kaman teaches that the access control module has data entry elements but does not disclose that it is a touch screen display. Treyz discloses an automobile computer system that is similar to that of Kaman in the sense that both have processors, displays, keyboard, etc.. Treyz discloses that a touch screen display may be desirable and allows for direct user interaction. See column 13, lines 51-57 and column 14, lines 34-56 of Treyz. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Kaman with a touch screen display so that user interaction is made easier for user input of data.

11. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (5726885) in view of Kaman (5715905).

For claim 34, Klein discloses a car rental system that allows authorized users to rent from a fleet of vehicles or to rent an individual vehicle. Klein discloses the step of accepting a reservation, see column 4, lines 35-42 and column 7, lines 4-28. Klein discloses that the reservation information is saved in a computer D (database) at the disposition center. Klein discloses accepting a request to access message when the terminal HA sends out a request for access/verification to the computer D. When a

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person shows up at their scheduled reservation time and interact with HA, this is an indication that the person is present at the pool of vehicles and would like to access a vehicle. The terminal HA is considered to be "a vehicle-associated processor" because it is associated with the vehicles by issuing chip cards that allow access. The term "associated" is broad and does not necessarily mean that the processor is located inside of the vehicle (which seems to be a point of argument made by applicant's counsel in response to the first action). Klein discloses that a verification process is performed by the computer D and that the user ID is determined (are they an authorized user?) and verifies reservation information contained in the database (computer D). If all the information checks out ok, then a chip card is issued and the user is enabled access to the car. Not disclosed is that the communication from HA to the computer D is wireless. Klein discloses a dedicated line (2) as opposed to a wireless communication channel; however, Klein does disclose the use of a communication channel for the same purpose (ID verification, etc.). Kaman discloses a system used with a pool of vehicles that determines whether or not to grant access to vehicles by initiating a verification process. The system utilizes wireless communications, which are very well known in the art and are commonly used as an alternative to wired communication channels (such as in Klein). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the communication between HA and computer D be wireless as disclosed by Kaman. Applicant is just claiming one type of communication protocol versus what the prior art uses and this is

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something that would have been obvious to one of ordinary skill in the art. There are really only two possibilities, wired and wireless, both of which are well known in the art.

12. Claims 35-44,48-51, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaman (5715905) in view of Klein et al. (5726885).

For claims 35,37,40,44, Kaman discloses a system for controlling access to a vehicle. The system has a vehicle access control processor 10 and a server 30. When a person is at a vehicle and desires access a verification process is performed. The verification inherently includes the checking of the communication channel. Kaman discloses two embodiments, one where server 30 does the verification and one where processor 10 does the verification locally. In the embodiment where the server does the verification, the server does the comparison of data step. When no communication channel is present, processor 10 does the verification and comparison of data locally. Claim 35 is considered to be a claim that is reciting two distinct species of the invention. One of the species is when there is no communication channel and the verification is done locally. The other species is where there is a communication channel and server 30 does the verification. Both situations are disclosed by Kaman. After verification is confirmed, the user is allowed access to the vehicle as claimed. Not disclosed are the steps of accepting reservation information to reserve a vehicle at a first time and a first location. Klein discloses a rental vehicle system that performs user identification to determine whether or not access to the rental vehicle should be granted. Klein is concerned with pools and fleets of vehicles just like Kaman discloses. Klein discloses

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that customers can reserve in advance a rental vehicle from a pool of vehicles or the user can reserve a specific vehicle. The advantage of allowing reservations is that a customer can have a guarantee that a vehicle will be available for them to use when they need it. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Kaman with the ability to accept reservations for rental vehicles as is disclosed by Klein, so that the vehicle access system of Kaman can also be used with rental vehicles. Accordingly, if a user needs a rental vehicle from the pool of vehicles, one can be reserved in advance as taught by Klein.

For claims 36,50,51, because Kaman has been modified to provide reservations for rental vehicles, it follows that one of ordinary skill in the art is going to be motivated to recognize when a rented vehicle is returned so that the customer can be billed accordingly. Klein discloses that once you return your vehicle, a bill is automatically generated. It would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize when a vehicle is returned and to automatically generate a bill for the customer based on usage information. It then follows that the server would be notified of vehicle return because the server is in control of the overall process, not the access control processor. Kaman discloses the transmission of time and distance as claimed. See column 5, lines 13-30.

For claim 38, the claimed verifying the status of the user's account is satisfied in Kaman by the disclosure that the system checks to see if a particular user card has been stolen or expired. Both constitute a status of the individual user's account. The

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first step is to identify the user by the presented card and then checking to ensure that that card is not listed as stolen and not expired. See column 7, lines 46-64.

For claim 39, as disclosed in column 7, lines 56-64, if the user account is found to have a problem, the notification to the user that there is a problem will be the fact that access to the vehicle is not being granted. The lack of a granting of access is a notification to the user that there is some kind of problem.

For claim 41, because Kaman has been modified in view of Klein, the modification results in the verification of the requested vehicle at the requested time and location. The examiner has provided Kaman with the reservation procedure of Klein, and the claimed limitation is disclosed as part of that process.

For claim 42, when a user is attempting to make a reservation for a specific vehicle and that vehicle is not available, the presentation of alternate choices is the presentation of the vehicles that are actually available to be reserved. This is also part of the reservation process brought to Kaman by modification in view of Klein. One can determine what vehicles are available at the time of making the reservation.

For claim 43, Kaman discloses that information on authorized users is sent to the vehicle. If you also take reservations as claimed and as addressed in this 103 rejection, it follows that the reservation information will be sent to the vehicle as claimed.

For claim 48,49, if person A has reserved vehicle X at a given time and location, when person B shows up to take vehicle X at the given time and location, access will be denied. This is the intent of the reservation itself. It prevents others from taking what

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you have reserved in advance. Clearly, if the user ID is not valid, no access will be granted.

13. Applicant's arguments filed 3/23/05 and 11/15/04 have been fully considered but they are not persuasive.

Applicant has argued a number of points that are directed to the disclosed invention and not the claims. Arguing how the disclosed invention operates when the claims do not recite what is being argued is non-persuasive. On page 11 applicant has stated that their system is opposite of Kaman because *"if the vehicle requests authorization from the server and no reply is received from the server, then it is assumed that the driver is allowed access and it will be granted"*. The claims do not reflect or contain language of this nature and scope. The newly added language of means for determining whether communications are being passed is considered to be new matter and is not a patentable feature for the claims. Applicant has argued that Kaman does not disclose any kind of scheduling component, but the examiner does not see where applicant has even claimed a scheduling component. This is not a persuasive argument if the feature argued is not even claimed.

With respect to Klein and the argument that having a wireless communication channel is novel, the examiner disagrees and has addressed this issue in the rejection of record. Changing one kind of communication protocol or channel for another is a choice that one of ordinary skill in the art would find as obvious. The argument for claim 47 that it is allowable for the same reasons as claim 1 is non-persuasive. The examiner

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notes that the language of previous claim 47 is not what has been added to claim 35 as there is a difference between.

With respect to the 103 rejections, applicant has chosen to base the patentability on the independent claims and have not provided a traversal of the actual reasoning behind the 103 rejections. The 103 rejections and the reasoning behind the obviousness conclusions are deemed proper because the independent claim is not allowable and no argument has been made addressing the obviousness statement set forth by the examiner.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

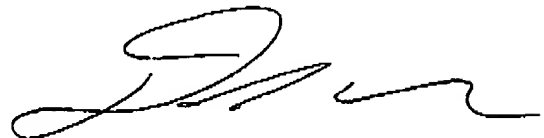
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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL
PRIMARY EXAMINER